

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (DB) No. 1258 of 2006

Against the judgment of conviction dated 26.09.2006 and order of sentence dated 27.09. 2006 passed by Shri Avinesh Kumar Sinha, the learned 1st Additional District & Sessions Judge, Darbhanga, in Sessions Trial No. 72 of 2006 arising out of L.N.M.U Case No. 16 of 2005, G.R. No. 309 of 2005.

Jai Krishna Jha, Son of Late Sunder Jha, Resident of Village- Satthar, P.S. Sahebpur Kamal, District- Begusarai

.... Appellant

WITH

Criminal Appeal (DB) No. 1116 of 2006

Mantun Mahto, Son of Late Anup Mahto Resident of Village- Govindpur, P.S. Rosera, District- Samastipur.

.... Appellant

WITH

Criminal Appeal (DB) No. 1157 of 2006

Krishna Kumar Ram, Son of Late Ram Prasad Ram, Resident of Mohalla- Sundarpur, Ward No. 2, P.S. Lalit Narayan Mithila University, District- Darbhanga.

.... Appellant

WITH

Criminal Appeal (DB) No. 381 of 2011

Raushan Thakur Son of Late Sitaram Thakur, Resident of Mohalla- Sundarpur Sonarpatti, P.S. L.N.M.U., District - Darbhanga

.... Appellant

Versus

The State of Bihar

.... Respondent
(In all the appeals)

Appearance :

(In CR. APP (DB) No. 1258 of 2006)

For the Appellant : Mr. Om Prakash Pandey, Amicus Curiae

For the Respondent : Mr. Abhimanyu Sharma, A.P.P.

Mr. Dilip Kumar Sinha, A.P.P.

(In CR. APP (DB) No. 1116 of 2006)

For the Appellant : Dr. Manoj Kumar, Advocate.

M/s Sweety Sinha, Advocate.

For the Respondent : Mr. Abhimanyu Sharma, A.P.P.

Mr. Dilip Kumar Sinha, A.P.P.

(In CR. APP (DB) No. 1157 of 2006)

For the Appellant : Dr. Manoj Kumar, Advocate.
M/s Sweety Sinha, Advocate.
For the Respondent : Mr. Abhimanu Sharma, A.P.P.
Mr. Dilip Kumar Sinha, A.P.P.

(In CR. APP (DB) No. 381 of 2011)

For the Appellant : Mr. Ajay Kumar Thakur, Advocate.
Mr.Md. Imteyaz Ahmad, Advocate.
Mr. Nilesh Kumar, Advocate.

For the Respondent : Mr. Abhimanyu Sharma, A.P.P.

=====

CORAM: HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

And

HONOURABLE SHRI JUSTICE DHARNIDHAR JHA

CAV JUDGMENT

(Per: HONOURABLE SHRI JUSTICE GOPAL PRASAD)

Date: 22- 07- 2015

Four appeals having been heard together are being disposed of by this common judgment as all four appeals arise out of the same judgment dated 26th September, 2006 passed by the learned 1st Additional District & Sessions Judge, Darbhanga, in Sessions Trial No. 72 of 2006, arising out of L.N.M.U. P.S. Case No. 16 of 2005, G.R. No. 309 of 2005 by which Mantun Mahto the appellant in Cr. Appeal (DB) No. 1116 of 2006 has been convicted for offence under Section 364A read with 120B of the Indian Penal Code for conspiracy for kidnapping for ransom and has been sentenced to undergo rigorous imprisonment for life. Further appellants Roshan Thakur, Krishna Kumar Ram and Jai Krishna Jha have been convicted for offences under Sections 364A and 302/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life and further been convicted under Section 201 of

Indian Penal Code, but no separate sentence for offence under Section 201 of Indian Penal Code was passed.

2. The prosecution case is that one Sonu Kumar alias Bittu aged about 14 to 16 years who is son of the informant Anil Kumar Thakur, P.W. 2, went to play on 21.02.2005 at about 3.30 to 4 P.M. He did not return and appears to have gone traceless without intimation. When Sonu Kumar did not return to his home then his elder brother, P.W. 5 made out a search to his friends, but, in vain then informed his father Anil Kumar Thakur. The informant along with his brother P.W. 3 Sunil Kumar Thakur, P.W. 7 Umesh Thakur, P.W. 6 Narayan Das, made out a search on 21.02.2005 itself from 5:00 P.M onwards, but even on frantic effort made to search him out, the boy could not be find out and then a Sanha was recorded at 11:00 A.M in L.N.M.U. Police Station regarding missing of the boy which has been marked as Exhibit-4. Search of the boy was continued for whole night and even on the following day.

3. Further case of the prosecution is that on the next day that is, 22.05.2005, during search of the victim the appellant Roshan Thakur said that the boy is at Rosera and follow him to Rosera and spend some money then the boy will be find out. The informant instead of going to Rosera with appellant Roshan Thakur, came to police station at 10:00 A.M and got written report submitted to the police

written by his brother Sunil Kumar Jha (P.W. 3) signed by informant.

An endorsement was made by the Officer-in-Charge on the written report (Exhibit-1) for lodging an F.I.R.; thereafter F.I.R. (Exhibit-10) was lodged.

4. After lodging of the F.I.R. police proceeded for investigation. During investigation, it was learnt from the spy that Roshan Thakur was seen with a person dressed in *Dhoti Kurta* near Darbhanga Bus Stand near Rahul Travels. Thereafter, Roshan Thakur was arrested at about 6.30 P.M on 22.02.2005. On enquiry he disclosed that one Krishna Kumar Ram of Sundarpur who is in service at Bus Stand disclosed to him that the kidnapped boy, Sonu is in Rosera at the house of Mantun Mahto. On the same day, i.e., 22.02.2005 the I.O. came to Darbhanga with Roshan Thakur at Bus Stand and arrested Krishna Kumar Ram at 8.45 P.M. at a Tea Stall. On enquiry, Krishna Kumar Ram disclosed that one Jai Krishna Jha has disclosed to him that the son of the informant is in the house of Mantun Mahto at Rosera. The I.O. raided the house of Jai Krishna Jha at about 23:30 hours, but Jai Krishna Jha was not found.

5. Thereafter on 23.02.2005 in the early morning at about 3:00 A.M, the I.O. along with accused Roshan Thakur and Krishna Kumar Ram came to Rosera police station and at the instance of Roshan Thakur and Krishna Kumar Ram raided the house of Mantun

Mahto in Govindpur at about 4:25 A.M. and arrested Mantun Mahto and from his house two country made rifles, two pistols, nine live cartridges and two empty cartridges were seized for which a separate case was instituted under the Arms Act in Rosera Police Station. But the I.O. did not find the victim Sonu in the house of Mantun Mahto. Thereafter, the I.O. proceeded with Mantun Mahto, Roshan Thakur, Krishna Kumar Ram from Rosera to Darbhanga.

6. In the way to Darbhanga, on enquiry by the police, Roshan Thakur and Krishna Kumar Ram admitted that they in collusion with Jai Krishna Jha enticed Sonu Kumar on pretext for getting a new cricket bat, took him to G.T. garage and closed him in the room of a temple by tying his mouth and were planning to send the victim to the house of Mantun Matho, as per pre plan but seeing the anger of the co-villager they killed the kidnapped boy as the boy had identified them and thereafter concealed the dead body of Sonu in a ditch at a burial place by the side of Bela Mandir.

7. Thereafter, I.O. came along with three appellants at the G.T. garage near Bela Mandir and there recorded confessional statement of Roshan Thakur first (Exhibit-6). Thereafter, recorded confessional statement of Krishna Kumar Ram and Mantun Mahto with their signatures marked as Exhibits 6A and 6B. After recording their statements they searched the place as indicated by them and the police

recovered pieces of dead body of the victim boy Sonu from ditch near the burial place. The dead body was naked in eight pieces and other articles like *Tabijj* in a string clothes etc. recovered material Exhibit I to VII). Seizure list was prepared of seized article (Exhibit-9).

8. The doctor conducting post mortem examination on body of victim Sonu, opined that the dead body in eight pieces cut portion resembled in complexion and in girth and the portions fitted with one another properly. The post mortem conducted on 24.02.2005 at 1:30 A.M. opined that time elapse since death 48(+12 hours) i.e. 36 to 60 hours, i.e., in between 21.02.2005 at 1:00 P.M to 22.02.2005. In the meantime, a team was constituted at District level for arrest of Jai Krishna Jha, the suspect who was arrested on 24.02.2005 and handed over to I.O. On 24.02.2005 Jai Krishna Jha confessed his guilt, but refused to give statement. But his statement was recorded thereafter on 25.02.2005 (Exhibit-6C). On 28.02.2005 search was made for the *Dabia* from the place i.e. ditch from where dead body and articles were recovered, but the *Dabia* was not recovered. Then on 11.03.2005, Jai Krishna Jha was again taken into police custody and his confession was again recorded on 13.03.2005 (Exhibit-6D) and on the basis of his confessional statement and on his indication on 13.03.2005, the *Dabia* was recovered from the mud from where dead body had been recovered. The said *Dabia* was wrapped in a cloth for which seizure list was

prepared (Exhibit-9A) of said *Dabia* (material exhibit-VIII). The police after investigation submitted charge sheet. On the charge sheet cognizance was taken and case was committed to the Court of Sessions. Thereafter after framing of charge, trial proceeded.

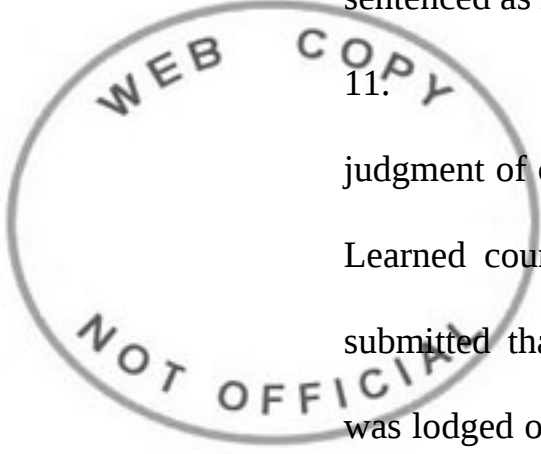
9. During trial, eleven witnesses were examined on behalf of prosecution. P.W. 1 is Police Constable who produced material exhibit seized as per instruction of the Officer-in-Charge of the police station. P.W. 2 is the informant who supported the prosecution case regarding missing of his son and on demand by Roshan Thakur to spend money and follow him to Rosera where his son will be found out. He has also deposed about recovery of dead body and articles from the ditch. P.W. 3 is brother of the informant who has also supported the prosecution case in the First Information Report and has proved the written report in his writing. P.W.4 who is neighbour has come to depose that he saw Sonu coming on Sunderpur bridge and Roshan and Krishna Kumar Ram was seen going behind Sonu at half past 4 to 5 P.M. and he disclosed this fact to the informant at 8 A.M on 22.02.2005. P.W. 5 is the elder brother of Sonu who has noticed that his brother has not returned after playing and enquired about his whereabouts and he then informed his father and uncle who made out a search and during search Roshan Thakur came to his house and assured his father and uncle to spend some money and follow him to Rosera then the boy may

be recovered from Rosera. P.W. 6 is neighbour of the informant, P.W. 7 is Umesh Thakur who identified the dead body of Sonu and witness of the seizure list. P.W. 8 has come to say that on 21.02.2005 he has seen Krishna Kumar Ram and Roshan Thakur along with the victim Sonu. P.W. 9 is doctor who conducted the post mortem examination. P.W. 10 is Ram Chandra Mahtho, witness of seizure list of *Dabia* and P.W. 11 is the I.O. who recovered the dead body on the disclosure of Roshan Thakur and Krishna Kumar Ram the place, from where the dead body and articles recovered (material Exhibit I to VIII).

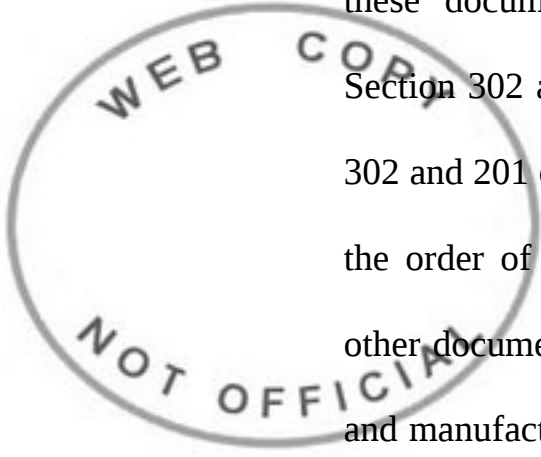
10. The trial court taking into in consideration the evidence of P.W. 3 in paragraph 7 that Mantun Mahto was seen taking tea at the tea stall of Roshan Thakur some days prior to the missing of the victim, followed with demand by Roshan Thakur that if informant, the father of victim, spent some money and follow him to Rosera the victim boy will be traced out, coupled with the confessional statements of Roshan Thakur, Krishna Kumar Ram and Jai Krishna Ram and the fact leading to discovery of dead body in pieces and other articles Exhibit I to VII and material Exhibit-VIII on their statement as well as the evidence of P.W. 4 and 8 that they saw Roshan Thakur and Krishna Kumar Ram going behind the victim at the bridge at 5:00 P.M. on the date of occurrence held that the appellants in conspiracy with each other kidnapped the boy and killed the victim and convicted them for offence

under Sections 120B, 364A and 302/34 of Indian Penal Code and sentenced as mentioned above.

11. Learned counsel for the appellants challenged the judgment of conviction and order of sentence recorded by the trial court. Learned counsel for the appellant, namely, Roshan Thakur, however, submitted that occurrence took place as alleged on 21.02.2005, F.I.R. was lodged on 22.02.2005 and the appellant Roshan Thakur was arrested on 22.02.2005 itself, but was not produced before the Chief Judicial Magistrate till 25.02.2005 when place of arrest and place of production before the Magistrate was such a distance which can be traveled within an hour and so appellant was kept in unlawful detention when he was required to be produced within 24 hours of his arrest and hence entire investigation by the I.O. suffers from bias. It has further been contended that F.I.R. was lodged on the written report by the informant on 22.02.2005 for offence under Section 364A of the Indian Penal Code. The investigation proceeded and during investigation inquest report was prepared which has been marked as Exhibit-8, seizure list regarding seizure of article recovered marked Exhibit-9 and confessional statement of accused Roshan Thakur, Krishna Kumar Ram and Jai Krishna Jha (Exhibit 6 to 6D) was prepared on 23.02.2005 itself but in all these documents the P.S. Case number is mentioned as L.N.M.U. Case No. 16 of 2005 dated 22.02.2005 for offence punishable under Sections 364A,

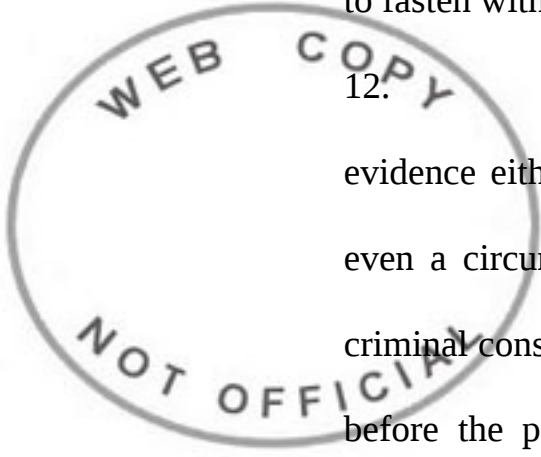


302 and 201/34 of the Indian Penal Code, but till the date on which these documents were prepared i.e. 23.02.2005, the offence under Section 302 and 201/34 had not been added, the offence under Section 302 and 201 of Indian Penal Code had only been added on 25.02.2005 by the order of the Chief Judicial Magistrate. Hence, the seizure list and other documents Exhibit 6 series, Exhibit-8 and Exhibit 9 are anti dated and manufactured and is neither reliable nor trustworthy to be taken into consideration in evidence. It has further been contended that the confession made before the police by the appellants were recorded while appellants were in custody is not admissible in evidence to be taken into consideration as this information or confessions are hit by Section 25 and 26 of the Evidence Act as their statements made before police as well as in police custody. It has further been contended that it has not been made clear that recovery was made whether on the statement of Roshan Thakur or Krishna Kumar Ram. Attention has been drawn to the evidence in paragraph 8 of P.W. 11 the I.O., where I.O. has stated that recovery of articles were made at the confessional statement of Roshan Thakur and Krishna Kumar Ram but not specifically stated whether on statement of Roshan Thakur or Krishna Kumar Ram and submitted that there is no provision for taking joint statement. The criticism advanced, that statement of witnesses can not be recorded simultaneously at the same time and I.O. has not stated that whose statement was recorded



earlier in point of time giving disclosure of the fact leading to discovery to fasten with liability under Section 27 of the Evidence Act.

12. It has further been contended that there is no reliable evidence either direct or circumstantial evidence, rather no evidence or even a circumstance proceed to fasten the accused with the charge of criminal conspiracy. It has further been stated that confessional statement before the police or statement made in custody of the police of the witnesses are not admissible in evidence and is fit to be rejected and not required to be considered. It has further been stated that evidence of P.W's. 4 and 8 suffers from various infirmities that occurrence took place on 21.02.2005 and P.W. 4 and 8 are the nearest neighbourer. Frantic effort has been made by the informant and his family members as well as co-villagers to make out search of Sonu since 5:00 P.M. on 21.02.2005 which continued for whole night and search continued even on the next day till 10 A.M. when F.I.R. was lodged. Though P.W. 4 deposed that he saw Roshan Thakur and Krishna Kumar Ram with Sonu Kumar on the bridge at 5 P.M. on 21.02.2005 and even intimated the informant at 8 A.M. on 22.02.2005 on the very next day i.e. on 22.02.2005 at 8:00 A.M. before writing of the written report but this fact about seeing the victim with Roshan Thakur and Krishna Kumar Ram on the bridge does not find mention in F.I.R./Fardbeyan and omission to mention such a vital fact amounts to contradiction and hence, it is not proper to rely on the



evidence of P.W. 4 about last seen of the victim with Roshan Thakur and Krishna Kumar Ram at this bridge. P.W. 8, though, claims to have seen but did not intimate and has given an explanation that he went to Sasural at 7:30 and return after three days cast a serious doubt on his veracity.

13. Learned counsel for the appellant, Krishna Kumar Ram however adopted the argument advanced on behalf of Roshan Thakur.

14. Learned Amicus Curiae for the appellant Jai Krishna Jha submitted that Roshan Thakur was arrested on 24.02.2005 after recovery of the dead body and article seized on 23.02.2005 and preparation on the confessional statement of Roshan Thakur and Krishna Kumar Ram Exhibit 6 to 6B whereas the confession of Jai Krishna Jha Exhibit (6C) was recorded on 25.02.2005 for the first time after fact leading to discovery on statement of Roshan Thakur and Krishna Kumar Ram. Hence the confession of Jai Krishna Jha is hit by Sections 25 and 26 of the Evidence Act. It has further been contended that no recovery/discovery can be attributed under Section 27 of Evidence Act on his confession as the fact has already been discovered about the place where article was concealed on the statement of Roshan Thakur and Krishna Kumar Ram on confessional statement of co-accused Roshan Thakur and Krishna Kumar Ram recovery or discovery of the dead body and articles of the victim had already been made on 23.02.2005. Hence,

Jai Krishna Jha cannot be attributed for the fact leading to discovery and not admissible under Section 27 of Evidence Act.

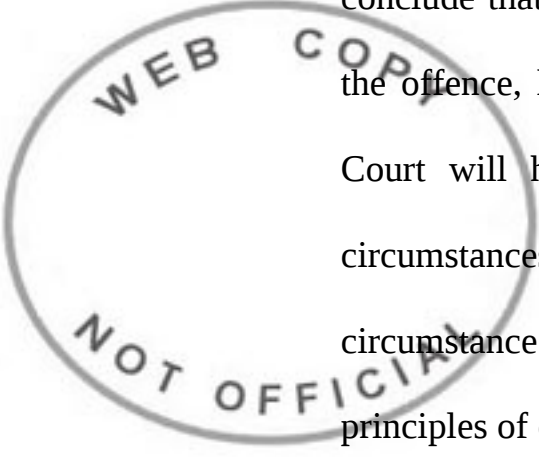
15. Learned counsel for the appellant, Mantun Mahto however contends that there is no evidence regarding his implication as only evidence against him is that he was seen at the Tea Stall, but this fact can neither been placed before the I.O. nor in examination-in-chief and it is not a circumstance pointing to the guilt of his participation in the crime or he is being in agreement to do the crime as a conspirator.

16. Learned counsel for the State however submitted that it is true that there is no direct evidence in this case. The cases hinges on circumstantial evidence. It has further been submitted that prosecution has proved the chain of circumstance and each circumstance has been established that while making out a search of the victim, Roshan Thakur came and asked that if money will be spent the boy can be find out at Rosera and asked the informant to follow and this information was given by the appellant Roshan Thakur and Krishna Kumar Ram which lead to recovery of the dead body from the ditch as well as articles like clothes and Tabijj(pendent and Munga) tight round the neck of the deceased. The dead body was found in same complexion and portion of dead body fitted one another and this followed with the motive that Roshan Thakur has been ousted from the village and it can well be inferred that this motive can be chain of circumstance so completely pointed out to the

guilt of the accused. Further this evidence read with Section 10 of the Evidence Act that the co-accused conspired together and were in agreement to have committed the offence in conspiracy each accused as conspirator of the said offence are also liable for conviction and sentence for the same offence.

17. Hence taking into consideration the respective submissions the question for consideration is as to whether prosecution has been able to prove that accused persons in conspiracy with each other, i.e., in agreement with common intention has committed the offence and the circumstances proved led to irresistible conclusion consistent with the hypothesis of the guilt of the accused, leaving no ground for any conclusion consistent with innocent of the accused.

18. Hence from the respective submissions and going to the records of the case, it is admitted that there is no direct evidence, neither about kidnapping nor about conspiracy nor about killing of the victim and the case hinges on circumstantial evidence. However, the circumstantial evidence has its own limitation. It is well settle that in case resting on circumstantial evidence each circumstance must be exclusively proved by cogent, reliable and unimpeachable evidence and all the circumstances brought out by the prosecution must inevitably and exclusively pointed out to the guilt of accused and those circumstances should form a chain of circumstance reasonably and irresistible

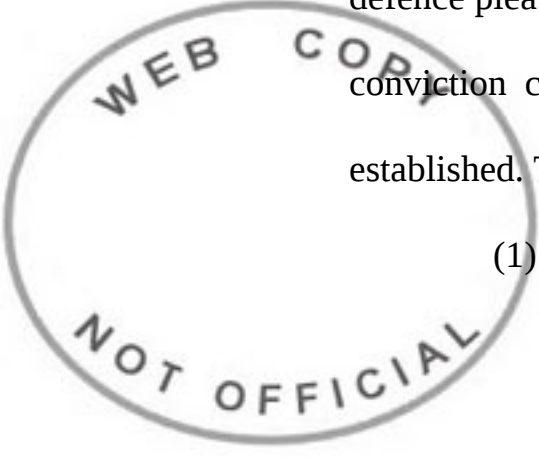


concluding to the guilt of accused and inconsistent with the innocence, to conclude that it is the accused persons and non else who has committed the offence, leaving no probability of killing by any other person. The Court will have to bear in mind the cumulative effect of all the circumstances and weigh them into an integral whole. Any omission of a circumstance is fatal to prosecution case. It is proper to quote the principles of circumstantial evidence reported in A.I.R. 1954 S.C. 343.

“It is well to remember that in cases where the case is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should be in the first instance be fully established, should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability the act must have been done by the accused.

19. A reference may be made to a later decision in **Sharad Birdhichand Sarda vs. State of Maharashtra**, (AIR 1984 SC 1622). Therein, while dealing with circumstantial evidence, it has been held that onus was on the prosecution to prove that the chain is complete

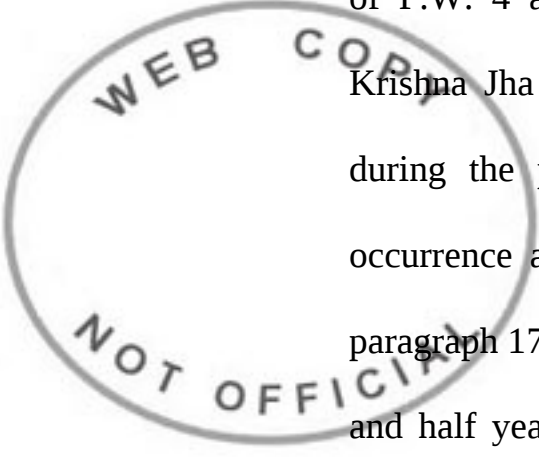
and the infirmity of lacuna in prosecution cannot be cured by false defence plea. The conditions precedent in the words of this Court, before conviction could be based on circumstantial evidence, must be fully established. They are:--

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- (1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. The circumstances concerned 'must' or 'should' and not 'may be' established;
 - (2) the facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty;
 - (3) the circumstances should be a conclusive nature and tendency;
 - (4) they should exclude every possible hypothesis except the one to be proved; and
 - (5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

20. These aspects were highlighted in **State of Rajasthan vs. Raja Ram** (2003 (8) SCC 180), **State of Haryana vs. Jagbir Singh and Anr.** (2003 (11) SCC 261) and **Kusuma Ankama Rao vs. State of A.P.** (Criminal Appeal No. 185/2005) disposed of on 7.7.2008)

21. Now coming to the fact and circumstance of the case and from the evidence on record the circumstance brought in evidence that the victim boy had gone to play on 21.02.2015, he did not return till 5 P.M., his brother P.W. 5 made a search but in vain so informed the parents and hence search was made by the father and uncle of victim (P.W. 3 & 5) with villagers since 5 P.M. on 21.02.2005 till whole night and even matter was reported to police on 21.02.2005 for which a Sanha entry was made (Exhibit-4) and on the next day, during the search (i) as per F.I.R. based on written report Roshan Thakur said to the informant that boy has been to Rosera and follow him then he will be find out. However during trial the prosecution developed the prosecution case during the evidence that he demanded to spend more money for recovery of the boy, **(ii)** matter reported to police on written report by P.W. 3, the brother of the informant, P.W.2, duly signed the informant, (P.W.2) **(iii)** on the basis of statement of Roshan Thakur that if they had accompanied with him to Rosera the boy will be found out and further, on the information of the spy to the I.O. Roshan Thakur was arrested by the I.O. and then Roshan disclosed that Krishna Kumar Ram had disclosed to him that the victim boy was at Rosera in the house of Mantun Mahto and then consequently Krishna Ram was arrested then Krishna Kumar Ram disclosed that appellant Jai Krishna Jha disclosed to him that the boy was in the house of Mantun Mahto at Rosera. Thereafter house of

Jai Krishna Jha was searched but he was not found at his house. Thereafter, house of Mantun Mahto was raided but the boy was not recovered and then police arrested Mantun Mahto, but the victim boy was not recovered then Mantun Mahto, Krishna Kumar Ram and Roshan Thakur were taken from Rosera to Darbhanga by the I.O. The I.O. in his evidence as P.W. 11 deposed that on way to Darbhanga from Rosera, on enquiry, Roshan Thakur and Krishna Kumar Ram admitted that they (Krishna and Roshan) in collusion with Jai Krishna Jha kidnapped the victim boy by enticing him away to provide a cricket bat and then took him to temple and there they tied him with a rope and as per their conspiracy they planned to send the victim boy to Rosera at the house of Mantun Mahto, but seeing the anger of the villagers the appellants killed the kidnapped boy and they confessed before the police that they in collusion killed the victim boy and their confession was recorded by the police which has been marked as Exhibit 6, 6A and 6B, **(iv)** on their confession and information given pointing to the place where they stated to have dumped the dead body and other articles concealed was unearthed and recovered on 23.02.2005 which includes the body of deceased in seven to eight pieces kept in gunny bag, clothes, Tabijj including the moon locket with munga which boy had worn; **(v)** The further evidence that Roshan Thakur and Krishna Kumar Ram were seen going behind the victim boy on the bridge which lead to temple in



between 4.30 P.M. to 5 P.M. on the date of occurrence as per evidence of P.W. 4 and 8 **(vi)** The circumstance that Mantun Mahto and Jai Krishna Jha were seen taking tea at the Tea Stall of Roshan Thakur during the period in between one and half month of the date of occurrence as per evidence of P.W. 3 in paragraph 7 and P.W. 2 in paragraph 17; **(vii)** The motive for the occurrence imputed that about one and half years ago from the date of occurrence, villagers had taken a decision to expel Roshan Thakur from the mohalla. After his expulsion, Roshan Thakur returned about one and half month prior to the occurrence. He came to the village and the villagers wanted to again expel him to get rid of Roshan Thakur from the village and **(viii)** The circumstance material Exhibit 8 Dabia was recovered from the place pointing out by Jai Krishna Jha on 13. 03. 2005 in his next confessional statement.

22. However, before taking into consideration the circumstances brought on record they are required to be tested; first as to whether the circumstances have been established by cogent, reliable and unimpeachable evidence and secondly, whether those circumstances point to guilt of accused. Thirdly, taking into consideration that whether the circumstance, proved, form the chain of circumstance on the basis of which irresistible conclusion for the guilt of the accused can be inferred then it is only the accused who has committed the offence leaving no

room for their innocence or the circumstance in totality are inconsistent with the innocence of the accused.

23. Now coming to the fact and circumstance of the case, the boy/victim went to play on 21.02.2005 at 3.30P.M. to 4 P.M. He did not return till 5 P.M. then P.W. 5 made enquiry from his friend about the boy then P.W. 2 the father of the victim was intimated by P.W. 5 about missing of the victim. Then search started for the boy, the search continued for whole night and in the meantime matter was reported at 11 P.M. on 21.02.2005 about missing of the boy and Sanha entry (Exhibit-4) was made. While the boy was being searched on the next date on 22.02.2005 Roshan Thakur came and suggested that the boy can be found out if the informant accompanied him and further the informant spent some money. However, in the written report filed in writing of P.W. 3, the uncle of victim and signed by P.W. 2, the informant, the father of the victim has only mentioned that the Roshan Thakur said that boy had gone to Rosera and accompany him then boy can be find out, but there is neither any mention in the written report about demand nor any mention about spending money for recovery of the victim. Hence, the prosecution story to spend money for recovery of the victim has been developed at the subsequent stage after lodging the First Information Report as the same missing in written report.

24. P.W. 5 in his evidence in paragraph 4 has stated that on 22.05.2005 while his father, uncle along with the villagers were talking at his house then Roshan Thakur came and said that the victim Sonu is in Rosera, spend some money, then he will be found out. The uncle took Roshan Thakur and talked with him separately then Roshan Thakur demanded that some more money was required to be spent. However, this evidence of P.W. 5 is in contradiction with the evidence of P.W. 3 the uncle of P.W.5 The uncle P.W. 3 in his evidence in paragraph 4 has stated that he had not met Roshan Thakur rather says in paragraph 3 that he learnt from some people that Roshan Thakur was saying that if Anil Kumar Thakur spent some money and followed him to Rosera then the boy can be recovered. So the evidence of P.W. 5 and P.W. 3 are not corroborating each other but appear contradictory to each other and it is not proper to rely on these contradictory evidence. However, P.W.3 said that his brother (P.W.2) had gone to meet with Roshan Thakur. So the evidence of P.W.5 that Roshan Thakur came to his house and demanded more money further stands contradicted. The Fardbeyan was written by P.W. 3 and signed by P.W. 2. There is no mention about demand of money in the written report and it is only mentioned that Roshan Thakur said that the boy had gone to Rosera and if the informant accompany him he will be found out. P.W. 2 in his evidence however stated that Roshan Thakur said to spend some money

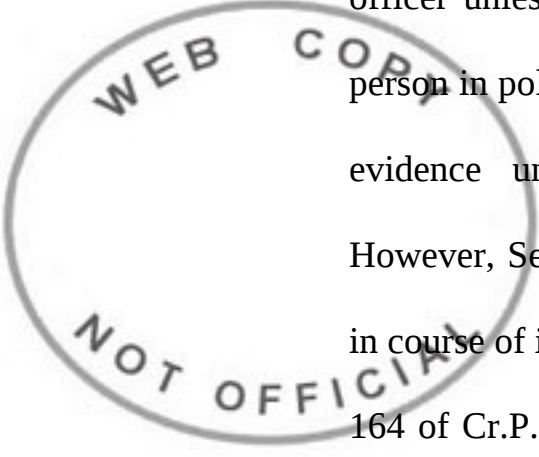
and accompany but in written report there is no mention about demand or spending money for recovery and hence is a development in prosecution case. As per evidence of P.W. 5, Roshan Thakur came to the house of informant at 9 A.M. on 22.02.2005 and made the demand and the matter reported to Police on 22.02.2005 at 10:00 A.M. by P.W. 2 and 3 just after the demand by Roshan Thakur at 9:00 A.M. but this important fact found missing in the written report casts a serious doubt about this part of the prosecution case as it is a development in prosecution case at investigation and trial i.e. at subsequent stage.

25. Hence, from the evidence, it is apparent that evidence regarding the fact that Roshan Thakur had asked to spend some money is a development in the prosecution story. The evidence of P.W. 5 that Roshan Thakur came at his house in presence of his father and uncle and demanded more money from the uncle who took him separately for talking, is contradicted from the evidence of uncle. P.W. 3 has stated in his evidence that he had not met with Roshan Thakur. Hence, the evidence regarding the demand of money or to spend money for recovery of boy by Roshan Thakur suffers from vice of development of prosecution case as well as suffer from contradiction as evidence of P.W. 5 and P.W. 3 are contradictory to each other, hence does not inspire confidence. The evidence of P.W. 5 that Roshan Thakur came to his house and demanded money is neither supported by the father nor his

uncle nor by any villager rather contradicted from the evidence of the uncle who said that he had not met Roshan Thakur and hence his testimony neither inspires confidence nor appears trustworthy and the evidence of P.W. 5 is not acceptable to the extent that Roshan came to his house and demanded that if money spent then boy will be find out and even demanded more money from uncle.

26. However, the second circumstance that the police took the Roshan Thakur, Krishna Kumar Ram and Mantun Mahto in custody and took them from Rosera to Darbhanga and in way Roshan Thakur and Krishna Kumar Ram confessed their guilt. Their confessions are Exhibit- 6, 6A and 6B and on the basis of their confession some articles were recovered along with the dead body which has been marked as Exhibit (i) to (vii)

27. However, it is pertinent to mention that law relating to confession mentioned under Sections 24 to 30 of the Evidence Act and Section 162 and 164 of Cr.P.C. Section 24 excludes confession caused by inducement, threat or promise. Section 25 is imperative and provides that confession made before or even in presence of a police officer under any circumstance is not admissible in evidence against the accused. Section 26 provides that no confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate, shall be proved as against such



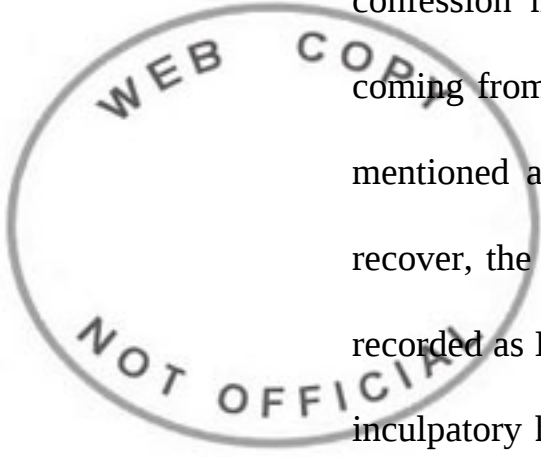
person. Hence Section 26 is partial ban on confession made to the police officer unless made before a Magistrate. Hence confession made by a person in police custody and not before a Magistrate is not admissible in evidence unless the same was recorded before the Magistrate. However, Section 164 of Cr.P.C. further provides that confession made in course of investigation may be recorded by a Magistrate under Section 164 of Cr.P.C. subject to safe-guard imposed by the Section. The safe-guard provided are that person be informed of his right not to confess and the confession be only recorded after removing the fear from the mind of the accused. Further in view condition provided under Section 162 Cr.P.C. any statement made to a police officer during investigation cannot be used for any purpose other than for taking contradiction in manner provided under Section 145 of the Indian Evidence Act, with exception to Section 32 (1) of the Evidence Act and Section 27 of the Evidence Act, i.e., in case of dying declaration or fact leading to discovery.

28. Section 30 of the Evidence Act provide that any confession made by accused persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession. Hence, self inculpatory statement is admissible against co-accused.

29. Hence, in that view of the legal position admission or confession made to the police during investigation or in police custody is hit by Sections 25 and 26 of the Evidence Act. Hence the entire confession recorded by police as Exhibit 6, 6A, 6B, 6C and 6D and statement made to the police in this regard is totally in-admissible in evidence and cannot be taken into consideration for proving the guilt or fact in issue, as there is no evidence that the same recorded before the Magistrate or the Magistrate complied the safe guard provide for recording confession. Hence Sections 25 and 26 of the Evidence Act put complete bar on admissibility of the statement of appellant before police.

30. The next circumstance, that's, on the information given by the accused Roshan Thakur and Krishna Kumar Ram, the dead body and other articles were recovered which has been marked as Exhibit (i) to (vii). It is true that statement made to the police and confession made are not admissible under Sections 24, 25 and 26 of the Evidence Act, but Section 27 of the Evidence Act partially lifts the ban of Sections 25 and 26 of the Evidence Act. Hence Section 27 of the Evidence Act is seen as proviso to Section 25 and 26 of the Evidence Act and only the fact leading to discovery is admissible in evidence, i.e., in consequence of information received from the person in the custody of the police.

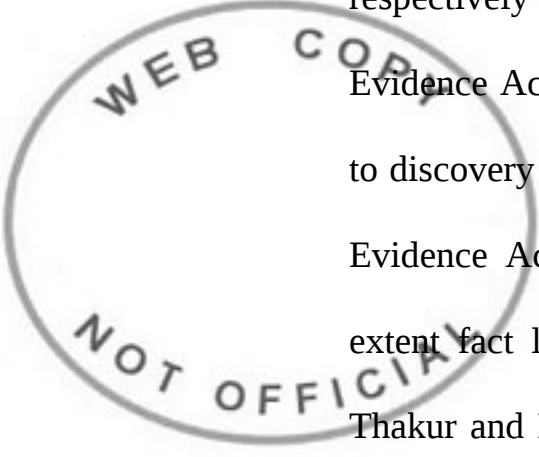
31. However, the point raised is that between the confession made by Roshan Thakur and Krishna Kumar Ram while coming from Rosera to Darbhanga in custody of police it has not been mentioned as to who disclosed first but before the search and article recover, the statement of Roshan Thakur and Krishna Kumar Ram was recorded as Exhibit 6 and 6A and even assuming that their statement are inculpatory having been admissible in evidence against himself as well as the co-accused under Section 30 of the Evidence Act, but since the said statement made while in custody of the police is not admissible in evidence in view of Section 26 of the Evidence Act. But the part of the statement/information leading to discovery is admissible in evidence under Section 27 of the Evidence Act as Section 27 of the Evidence Act is an exception to Section 26 of the Evidence Act and hence to that extent the fact leading to discovery may be admissible in evidence against both Roshan Thakur and Krishna Kumar Ram. However statement recorded under Section 161 of Cr.P.C. before police and as per Section 162(2) Cr.P.C. cannot be used for any purpose except for contradiction recorded under Section 145 of Cr.P.C. with exception to Section 32(1) use as dying declaration or under Section 27 of the Evidence Act as fact leading to discovery but joint statement of several accused leading to discovery of fact is covered under Section 27 of the



Evidence Act is doubtful. However fact remains that fact leading to discovery is admissible in evidence.

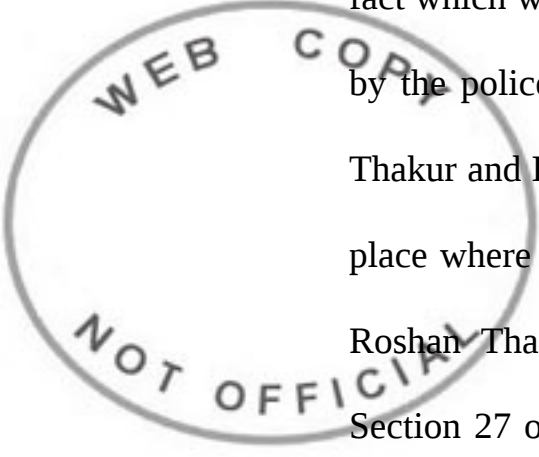
32. So far appellant Jai Krishna Jha is concern, he was arrested and taken into custody on 24.02.2005 after the recording of the confession of Roshan Thakur and Krishna Ram and recovery of dead body and articles material Exhibit I to VII on the confession. The confession of Jai Krishna Jha was recorded on 25.02.2005. As per evidence of I.O., he again attempted on 28.02.2005 for recovery of Dabia by which the victim was said to have been killed and cut into pieces from the place pointed out by Roshan Thakur and Krishna Ram but in vain. Thereafter, Jai Krishna Jha was taken into police and remanded on 11.03.2005 as per evidence of P.W. 11 in paragraph 20 and again recorded the confessional statement of Jai Krishna Jha on 13.03.2005 and marked as Exhibit-6D and then I.O. claimed in his evidence that on the basis of confessional statement, the Dabia wrapped in clothes besmeared with mud was recovered from the place from where the dead body was recovered for which seizure list prepared marked as Exhibit-9A.

33. However, the statement of appellant recorded by police while the appellant was in custody of the police and those statement proved as Exhibits 6, 6A, 6B, 6C and 6D are confessional statements of Roshan Thakur, Krishna Kumar Ram, Mantun Mahto and



confessional statement of Jai Krishna Jha on 25.02.2005 and 13.03.2005 respectively are not admissible in evidence in view of Section 26 of the Evidence Act, but the statement admissible to the extent of fact leading to discovery under Section 27 of the Evidence Act as Section 27 of the Evidence Act is exception to Section 26 of the Evidence Act to the extent fact leading to discovery. However, the statement of Roshan Thakur and Krishna Kumar Ram recorded on 23.02.2005 and recovery made on the basis of that statement, whereas the recovery of Dabia was made on 13.03.2005 allegedly on disclosure statement made by Jai Krishna Jha from the same place which was already discovered on statement or information of Roshan Thakur and Krishna Kumar Ram from where the dead body was recovered. However, two points arise. First, whether the joint statement of several accused i.e. Krishna Kumar Ram and Roshan Thakur leading to discovery is covered by Section 27 of the Evidence Act? Further the subsequent disclosure by Jai Krishna Jha on 25.02.2005 or 13.03.2005 is a subsequent disclosure in respect of Dabia can be attributed to Jai Krishna Jha for fact leading to discovery as the fact had already been discovered by police on the statement of Roshan Thakur and Krishna Kumar Ram which became known to police or I.O?

34. The word discovery in Section 27 of Evidence Act is of special significance. The word discovery is impregnated with the



meaning something new which is not known earlier. It does not mean the fact which was already discovered. The fact has already been discovered by the police on 23.03.2005 as per statement or confession of Roshan Thakur and Krishna Kumar Ram and hence discovery of Dabia from the place where dead body and other articles recovered on the statement of Roshan Thakur cannot be attributed to Jai Krishna Ram and hence Section 27 of the Evidence Act is not applicable to Jai Krishna Jha for the recovery of Dabia. The place was known to police on disclosure of information/statement/confession by Roshan Thakur and Krishna Kumar Ram and the police recovered the dead body and marked as material Exhibit I to VII on the basis of that disclosure and again attempt was made on 28.02.2005, but no recovery was made hence the recovery of Dabia from same place on alleged statement of Jai Krishna Jha cannot be attributed as is not a discovery of fact as the fact was already discovered from the statement of Roshan Thakur and Krishna Kumar Ram. Discovery means something new but the recovery from same place is not new or discovery to attract Section 27 of the Evidence Act for Jai Krishna Jha.

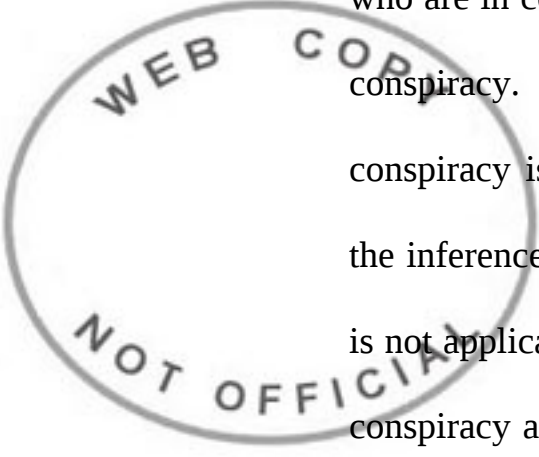
35. However, the argument advanced that reading Section 10 with Section 27 of the Evidence Act, it can well be inferred the implication of the other appellants with Roshan Thakur and Krishna Kumar Ram. It is submitted that the statement made by one conspirator

to be admissible against other conspirator during the subsistence of conspiracy. However, even it is relevant to quote Section 10 of the Evidence Act:-



“Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it”.

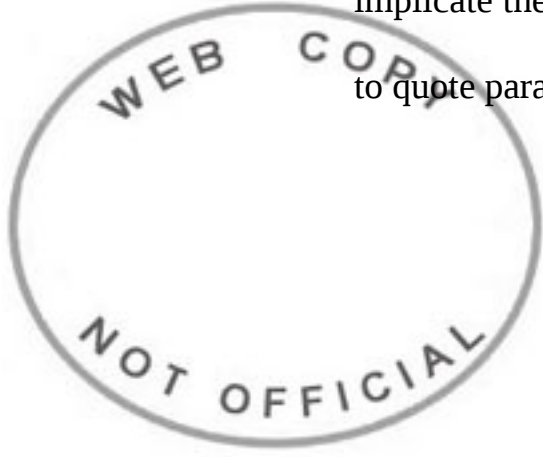
36. However, Section 10 of the Evidence Act is in two parts. The first part provides that to attract the applicability of Section 10 of the Evidence Act, the Court must have a reasonable ground to believe that two or more persons had conspired together for committing an offence in furtherance of their common intention. The expression used in first part of Section 10 of Evidence Act, “reasonable ground to believe that two or more persons have conspired together to commit an offence” prima facie indicated that there must be some prima facie evidence to conclude or show that there was criminal conspiracy between the accused persons with common intention. Then the second part of Section 10 comes into



play to infer that anything done or written by any one of such persons who are in conspiracy are relevant fact for other conspirators who are in conspiracy. However, if common intention in presence of criminal conspiracy is not established by cogent and prima facie evidence then the inference under second part of Section 10 of Evidence Act fails and is not applicable. Hence, the ingredient of Section 10 of Evidence Act is conspiracy amongst the accused persons and for establishing offence of criminal conspiracy the ingredient required to be proved are (i) an agreement between two or more persons, (ii) the agreement must relate to doing or causing to be done either (a) an illegal act or (b) an act which is not illegal in itself but is done by illegal means. So meeting of mind of two persons for doing an illegal act is sine qua non for criminal conspiracy. However, coming to the fact and circumstance of the case that there is no direct evidence of conspiracy, though, it is difficult to collect evidence of conspiracy as conspiracy is normally hatched in secrecy, direct evidence is impossible to have, so it may be inferred by circumstantial evidence provided such inference if possible from chain of circumstances proved. (2008 10 SCC 394) (Yogesh alias Sachin Jagdish Joshi v. State of Maharashtra).

37. However, the only material brought in evidence is the confessional statement of the co-accused in custody of police which is not admissible in evidence. Moreover, it is well settled that post arrest

statement made by co-conspirator in police custody cannot be used to implicate the accused in conspiracy to murder of deceased. It is relevant to quote paragraph 57 and 58 of decision reported in 2010(8)SCC 233;



“57 Section 10 refers to the statement of a fellow conspirator that pertains to the common intention behind the act, and such a statement can be used against the other conspirators;

58. Furthermore, this Court in Mohd. Khalid v State of W.B. and State of Gujarat v. Mohd. Atik has held that a post-arrest statement would not fall within the ambit of Section 10 the Evidence Act”.

38. Hence, this view is also falsified by decision reported in AIR 1940 PC 176. It is well settled that post arrest statement would not fall in the ambit of Section 10 of the Evidence Act. However, coming to the fact and circumstance of the case, the confession recorded marked as Exhibits 6 to 6D is not applicable to infer conspiracy. However, Section 27 of the Evidence Act not applicable to Jai Krishna Jha as the statement of Jai Krishna Jha on 21.02.2005 and 13.03.2005 is subsequent to discovery of fact on the statement of Roshan Thakur and Krishna Kumar Ram. The word discovery is impregnable with idea of something new but when the fact, the police where article concealed has already been known cannot be said to be discovery on the subsequent

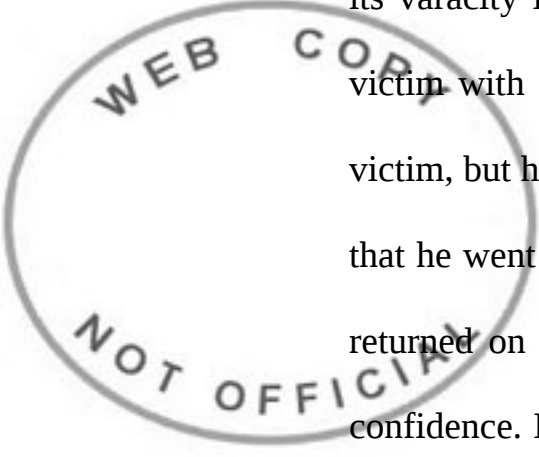
statement by co-accused of same fact and hence Section 27 of the Evidence Act is not applicable to Jai Krishna Jha.

39. So far Mantun Mahto is concerned there is nothing to suggest that Section 27 of the Evidence Act applies to him. However there is evidence that Mantun Mahto was seen some day prior to the occurrence, taking tea at the tea stall of Roshan Thakur. The question whether the evidence that Mantun Mahto was seen taking tea at the tea stall of the Roshan Thakur, can be a circumstance to infer conspiracy pointing to the guilt of accused. However, taking tea at the tea stall of Roshan Thakur neither can be said to be an incriminating circumstance nor a circumstance pointing to guilt of accused for conspiracy of murder. Hence the evidence that Mantun Mahto was seen at tea stall of Roshan Thakur some days prior to the occurrence is not a circumstance to infer that Mantun Mahto was in conspiracy with Roshan Thakur and Krishna Kumar Ram without any evidence of any incriminating talk between them in relation to occurrence.

40. The next circumstance is the evidence of P.W.4 and 8 about the fact that Sonu was seen on the bridge at about 4.30 P.M. to 5 P.M. on 21.02.2005 along with Roshan Thakur and Krishna Kumar Ram. The evidence that Roshan Thakur and Krishna Kumar Ram was seen going behind the victim Sonu and were talking to each other. P.W. 4 claims to have seen Sonu going on bridge taking a cake and

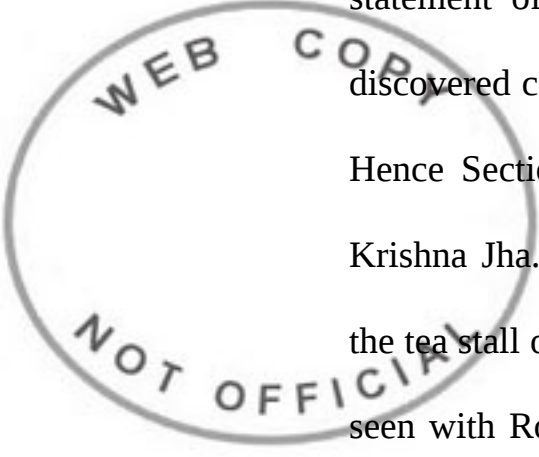
Roshan Thakur and Krishna Kumar Ram seen at 5 P.M. on the bridge.

However, the prosecution case is that P.W. 2 on getting information from P.W. 5 that his son had not returned the father (P.W. 2) and uncle (P.W.3) along with the villagers were searching Sonu since 5 P.M. on 21.02.2005 and frantic efforts were made by them and the entire village was out in search for him but neither P.W.4 nor P.W. 8 disclosed this fact at the relevant time when search was made. Though, P.W. 4 in his evidence said that he disclosed the fact that Sonu was seen on the bridge with Roshan Thakur and Krishna Kumar Ram at about 8 A.M. to the informant on 22.05.2005. The informant claim to have given written report on 22.02.2005 at 10 A.M. just after the information given by P.W.4 but the written report does not mention about this fact in the written report when this fact was a fact which is of vital importance to the prosecution case and finding out the accused and saving the boy had it been disclosed at appropriate time at 5-6 O'clock on 21.02.2005. At the time, the information given was of vital importance for active consideration but the prosecution neither claimed to proceed on this information nor even mentioned it in the written report before police which cast a serious doubt about the evidence of P.W. 4 to have seen the victim with Roshan Thakur and Krishna Kumar Ram or disclose the fact to the informant nor informant in his evidence corroborated the fact either in written report nor in the



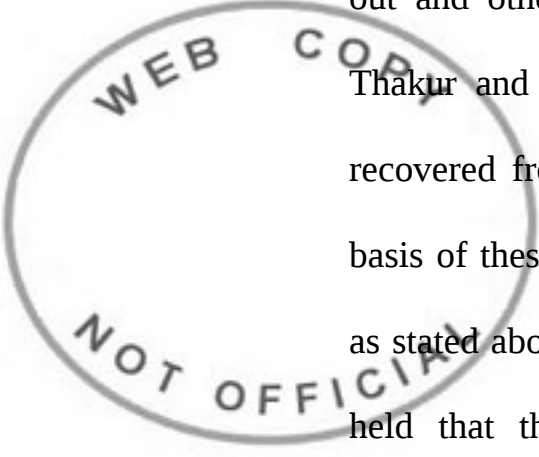
evidence. Hence this part of evidence does not inspire confidence and its varacity is doubtful. Though, P.W. 8 also claims to have seen the victim with Roshan Thakur and Krishna Kumar Ram taking with the victim, but he claimed he did not disclose the fact and gave explanation that he went to his Sasural on 21.02. 2005 at Rosera on 6.30 P.M. and returned on 24.02.2005 and hence his evidence also does not inspire confidence. However, even assuming that P.W. 4 and P.W. 8 had seen Roshan Thakur and Krishna Kumar Ram at the bridge talking together but without any evidence about what talk was going on, it is difficult and improper to take it as an incriminating circumstance against the accused person holding the circumstance pointed to the guilt of accused.

41. Hence, taking into consideration the entire circumstance that Roshan Thakur disclosed during search of the victim that the boy can be find out if the informant accompanied him to Rosera and further had spent some money. However, spending of money is apparently a development of prosecution story as discussed above and even evidence of P.W.5 about demanding more money by Roshan Thakur stands contradicted with evidence of P.W. 3, the uncle. Confession of accused persons which is Exhibit-6 series in police custody is not admissible in evidence and what is admissible is only fact leading to discovery on the statement of Roshan Thakur and



Krishna Kumar Ram, whereas discovery or Dabia on the basis of statement of Jai Krishna Jha is not admissible as the fact already discovered cannot be rediscovered on the statement of Jai Krishna Jha. Hence Section 27 of the Evidence Act is not applicable against Jai Krishna Jha. Further circumstance is that Mantun Mahto was seen at the tea stall of Roshan Thakur and further circumstance that victim was seen with Roshan Thakur and Krishna Kumar Ram on the bridge are not an incriminating circumstance and not a circumstance point to the guilt of the accused and hence not liable to be taken into consideration when the conversation between the victim and Roshan Thakur as well as Krishna Kumar Ram is not brought on record and nothing to indicate any conversation was indicating to the guilt of accused. However, the contents of the said conversion or the contents of which are neither disclosed nor suggested. However, motive suggested or brought on record that Roshan Thakur was exile from the village for sometime and so has grievance against the villagers, but there is no evidence of any clear enmity with the informant and Roshan Thakur. Moreover, there is no evidence regarding demand of money for kidnapped the boy and so there is no clear evidence about demand for ransom.

42. Hence, taking into consideration the entire circumstance the only circumstance established by cogent and reliable evidence is the fact that Roshan Thakur said that the boy is at Rosera



and if the informant follow him to Rosera then victim boy can be traced out and other circumstance is that on the statement of the Roshan Thakur and Krishna Kumar Ram, the dead body and articles were recovered from ditch i.e. fact leading to discovery. However, on the basis of these evidences, there are only two circumstances established as stated above and the question for consideration is whether it can be held that the prosecution proves the charges of murder beyond reasonable doubt or guilt of the accused is established. However, in my considered opinion on the basis of these two circumstances, it is not proper nor reasonable to infer that these circumstances are sufficient to hold that chain of circumstance so complete as to infer within all probabilities. Consistent with the guilt of accused that it is only Roshan Thakur and Krishna Kumar Ram who have killed the victim boy and non else inconsistent of any hypothesis of the innocence of the appellants.

43. However, it is pertinent to mention that the place from where the dead body or article recover in open place not within the control of Roshan Thakur and other appellants and the probability that victim not kidnapped or kill by any other person does not ruled out by the circumstance established by the accused persons to infer that it is appellant only and non else has done to death with all certainty and no other theory except the appellant has committed the offence.

44. Moreover, the circumstance Roshan Thakur was arrested on 22.02.2005 and was not produced before the Magistrate within twenty-four hours rather can be unlawful detention on 22.02.2005 and mere fact that Section 302 of Indian Penal Code was added in offence in confessional statement and seizure list or inquest report be inferred as anti dating the document may not be inferred. However, taking into consideration the facts and circumstances of the case that informant was taken to Rosera for recovery of the boy and demand of money and on return from Rosera and recovery of article on the basis of following statement of accused, the action of I.O. may be not mala fide, though, against the law and for that prosecution story may be disbelieved or adverse inference be taken. Moreover, the recording of Section 302 of Indian Penal Code in inquest and material exhibits may be due to fact of recovery of dead body and confessional statement of the accused.

45. Taking all the circumstance together as united whole even then the circumstances coupled with fact leading to discovery it cannot be conclusively concluded that it is only the appellants who have done the occurrence. Consistent with the guilt of accused and inconsistent with the innocence. Hence, under the fact and circumstance the appellants are entitled to reasonable doubt. It is relevant to draw an analogy from the decision reported in **Aghnoo**

Nagesia case reported in A.I.R. 1966 SC 119 where on the confession of the appellant F.I.R. lodged and the recovery of dead body and weapon seized were found admissible under Section 27 of Evidence Act but held on these evidences not sufficient to convict the appellants.

46. However, it is matter of great regret that a cold blooded murder go unpunished and on the evidence strong suspicion arise that the appellants may have killed the victim but there is difference between may be proved and must be proved beyond reasonable doubt. There is great distance to travel from 'may be proved' and 'must be proved' and this distance required to be travelled by cogent, reliable, truthful and unimpeachable evidence.

47. However, on the basis of the circumstance proved there is neither any direct evidence nor the circumstance proved from a chain of circumstance so completed to infer that it is only the appellants who have done the occurrence consistent with the guilt of accused leaving any hypothesis of the innocence of the appellants, hence, I find and hold that the prosecution has not been able to prove the charges beyond all reasonable doubt. Hence judgment and order of conviction recorded by the trial court is hereby set aside. All the appeals are allowed. However, The appellant, namely, Jai Krishna Jha, of Cr. Appeal (DB) No. 1258 of 2006 who is in custody, be set at liberty forthwith, if not required to be detained in any other case. The

appellants of Cr. Appeal (DB) No. 1116 of 2006, Mantun Mahto, Cr. Appeal (DB) No. 1157 of 2006, Krishna Kumar Ram and Cr. Appeal (DB) No. 381 of 2011 Raushan Thakur, are discharged from their liability of their bail bonds.

(Gopal Prasad, J.)

Dharnidhar Jha, J. :- I agree.

(Dharnidhar Jha, J.)

m.p.
N.A.F.R.

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